

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

SHARON PAASCH,)	
)	
Plaintiff,)	8:04CV541
)	
vs.)	ORDER
)	
FORTIS INSURANCE COMPANY,)	
)	
Defendant.)	

This matter is before the court on the defendant's Motion to Amend Final Progression Order (Filing No. 14). The defendant moves to amend the progression order, presumably pursuant to Federal Rule of Civil Procedure 60, to remove the designation of trial as a jury trial. The plaintiff did not file a brief in opposition to the motion.

The defendant contends the plaintiff's jury demand is not in conformance with the Nebraska local rules because no jury demand was made after removal (NECivR 81.1) and state law does not require a jury demand (Neb. Rev. Stat. § 25-1104). However, the plaintiff, in her original State court complaint, did demand a trial by jury. **See** Filing No. 1, Exhibit 1 (Complaint). Since the plaintiff made a jury demand in conformance with Federal Rule of Civil Procedure 38(b), even though no such demand was mandatory under state law, no additional demand was necessary under the Nebraska local rules. The result would likely be different had the plaintiff failed to make a jury demand in state court. Upon consideration,

IT IS ORDERED:

The defendant's Motion to Amend Final Progression Order (Filing No. 14) is denied.
DATED this 31st day of May, 2005.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge